



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/502,299 | 07/22/2004 | Michael James Baker | 608-432 | 1587 |

23117 7590 03/07/2006

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

EXAMINER

HAILEY, PATRICIA L

ART UNIT PAPER NUMBER

1755

DATE MAILED: 03/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Applicants' remarks and amendments, filed on December 13, 2005, have been carefully considered. Non-elected claims 67-70 have been canceled without prejudice; no claims have been added.

Claims 39-66 and 71-75 remain pending in this application.

Withdrawn Rejections

The objection to claim 39, stated in the previous Office Action, has been withdrawn in view of Applicants' amendment to this claim.

The 103(a) rejection of claims 39-66 and 71-75 as being unpatentable over Baker et al. (U. S. Patent No. 6,534,438), stated in the previous Office Action, has been withdrawn in view of Applicants' persuasive arguments traversing this rejection.

New Ground of Rejection

The following New Ground of Rejection is being made in view of the newly discovered reference to Bartley (U. S. Patent No. 5,179,056).

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 103

2. *Claims 39-66 and 71-75 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bartley (U. S. Patent No. 5,179,056).*

Bartley discloses a process for producing catalyst for the production of alkyenyl alkanoates from alkenes, alkanoic acids, and an oxygen-containing gas (col. 1, lines 10-15), said process comprising impregnating support particles with aqueous solutions of water-soluble palladium and gold compounds, precipitating the compounds onto the support with a precipitating agent, converting the precipitated compounds to palladium and gold with a reducing agent, washing and drying the support particles, further impregnating the support particles with a potassium promoter, and drying the impregnated particles to produce a catalyst. See col. 5, lines 8-35 of Bartley.

An example of the promoter is potassium acetate; an example of the reducing agent is hydrazine. See col. 5, lines 55-59 of Bartley, as well as col. 6, lines 35-53.

Although Bartley teaches that the “promoters are preferably applied in the form of aqueous solutions” (col. 6, lines 51-53), this teaching is not considered to exclude the employment of promoters in solid form. Selecting the physical state of a known material would have been within the level of ordinary skill in the art on the basis of its suitability with respect to mode of application and/or availability.

Examples of the support particles include particulate silica (considered to read upon “microspheroidal”), alumina, and silica-aluminas. See col. 6, lines 3-12 of Bartley.

Bartley discloses that the drying step can be performed at temperatures ranging from 40°C to 120°C. See col. 7, lines 4-9.

The catalysts produced by the aforementioned process preferably contains from about 0.5 weight percent to about 1.7 weight percent palladium (based on the total weight of the catalyst), and the gold to palladium weight ratio ranges from 0.2 to 1.5. See col. 7, lines 20-28 of Bartley.

At col. 9, lines 15-60, Bartley discloses an exemplary catalyst preparation procedure, in which a support and palladium and gold components are mixed and gently agitated, the precipitating agent is added with "mixing for a few seconds" (considered equivalent to "agitation"), and the reducing agent is added with agitation.

Although the exemplary preparation includes instances in which the mixtures are allowed to stand, these instances are not considered to preclude the process of Bartley from reading upon Applicants' claimed process, in view of Applicants' recitation of the term "comprising" in describing the claimed process.

Such a term in a process claim does not limit the claim to only those procedures which yield desirable results, or limit the claim to only those steps recited in the claim. Ex parte Stoddard et al. (POBA 1967) 154 U.S.P.Q.184, In re Halley (CCPA 1961) F2d 774, 132 U.S.P.Q. 16.

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

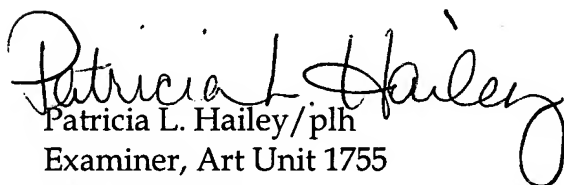
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia L. Hailey whose telephone number is (571) 272-1369. The examiner can normally be reached on Mondays-Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo, can be reached on (571) 272-1233. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group 1700 Receptionist, whose telephone number is (571) 272-1700.

Art Unit: 1755

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Patricia L. Hailey/plh
Examiner, Art Unit 1755
March 6, 2006


J.A. LORENZO
SUPERVISORY PATENT EXAMINER